

REMARKS

Claims 3-5 and 8-9 have been amended to delete the word "composition" used in these claims after the word "peracid", "surfactant" and "sequestrant." This amendment is made for formal purposes, to address the Examiner's concerns that are believed not to affect claim scope.

In the Examiner's paragraph 1 and due to a restriction requirement, Applicants elected Group I, claims 1-9, with traverse. The Examiner has withdrawn claims 10-57 from further consideration. Applicants agree with the withdrawal of claims 10 - 57 without prejudice looking forward to filing a divisional application for those claims.

In the Examiner's paragraph 2, the Examiner rejects claims 1-9 under 35 USC §112 arguing that the claims are indefinite. Reduced to its minimum, the Examiner argues that the formula of claim one, written in standard chemical nomenclature, as follows:



wherein m is 2 to 60, o and n are independently 0 to 40; R is a benzyl group, an alkylaryl group or, if $1 \leq o + n \leq 20$, R is a C₁₋₁₈ alkyl group; R' is a benzyl group, an alkylaryl group or, if o + n ≤ 1 , R' is a -H group; and x is 1-6 ...

is indefinite. Applicants respectfully traverse the rejection.

There are multiple flaws in the Examiner's reasoning. First, the formula is to be construed as one of ordinary skill in the art would understand the formula. The standard nomenclature use in the formula is conventional nomenclature common in naming virtually every nonionic surfactant patent ever issued. One of ordinary skill in this art understands the nomenclature "EO", "PO" and "BO" refers to ethylene oxide, propylene oxide and butylene oxide. Second, Examiner confuses scope with indefiniteness. The formula is to be understood that it can contain other materials that recited since the claim is a "comprising" claim. The scope does not prevent one of ordinary skill in the art to understand its meets and bounds. Applicants are not required to establish all possible embodiments of the formula as long as the formula itself is understood. In this regard each of the elements are clearly delineated and defined in the formula regarding structure and content.

The Examiner discusses certain embodiments of the invention in Table 1 items 1 through 14. Whether the formula of claim one corresponds to any of the specific examples is irrelevant to the scope of the claim. Applicants are entitled to claim as much or as little of this invention at the total discretion of the inventor. The claims and the specification need not be exactly coextensive in scope. Applicants do not acquiesce to the Examiner's position.

The Examiner has taken the position the claims 3-5 and 8-9 are indefinite due to use the word "composition" as is used in the claims. Examiner's position is not understood. However to advance prosecution, Applicants have deleted the term "composition" where appropriate.

Before discussing our rejection, Applicants note the Examiner's rejection of the formula in claims 1 and 5 and the Examiner's assertion that the formula must be construed more broadly than it appears. This position is clearly improper since the formula must be construed as written cannot be artificially expanded as the Examiner has concluded. While the formula can, on a limited basis, be expanded to include other compounds, the elements of the formula as written cannot be ignored. The formula as written requires certain end groups as defined and requires a block EO group and another alkylene oxide block group that can comprise either a PO block or a BO block as required by the details of the formula. If the prior art nonionic materials do not comply with the details of the formula, then they cannot anticipate the composition as claimed.

The Examiner should note that the claims have been amended to include a required amount of sequestrant and an essential oil. The sequestrant and oil cooperate to stabilize the oxidative material, act as a hardness ion removing agent and to render the cleaning material more acceptable to the cleaning operator. None of the primary references teaches that this amount of surfactant and essential oil can be used in the compositions of the invention for cleaning purposes. Support for the amendment is found in the application as filed from page 16 through page 17 and in the claims as filed.

In paragraph 4-6, Examiner has rejected claims 1-3 and 5-8 under 35 USC §102 (e) or §103 (a) over Grodin et al., United States Patent No. 6,168,808 or Grodin et al., United States Patent No. 6,444,230. Applicants assert that these patents do not teach the surfactant claimed and cannot anticipate the claims. The Examiner has identified Triton CF-10 and DF-12 and Genapol 2908 as surfactants that allegedly conform to the claimed nonionic surfactant. This is not correct and no anticipation is shown. Applicants further assert that modifying the compositions recited patents is not an obvious modification of the teachings of the cited

references. Applicants note that the cited references are based on a common priority document and as such have common disclosures. Applicants respectfully traverse the rejection.

The Examiner has asserted that the claimed materials are shown in the cited references. The Examiner relies on the presence of Triton CF-10, Triton DF-12 and Genapol 2908D to argue that the references show compositions having surfactants corresponding to the claimed formula. This is demonstrably untrue. The Triton surfactants are octyl/nonyl-ethoxylate C₈₋₉[EO] surfactant material and the Genapol material is an alcohol alkoxylate (i.e.) a C₁₂₋₁₅[EO]-[PO] material. Neither of these surfactant types falls within the claims as written. As written the claims require that the claimed material has at least a benzyl or alkylaryl group at both ends of the surfactant at the amount of alkylene oxide present in the reference materials. Since both the Triton and Genapol materials have a single octyl/nonyl group or a C₁₂₋₁₅ alkyl group and no aromatic, neither material can anticipate the claims. Because of the structure claimed, the material must contain a surfactant that contains defined amounts of both the aromatic end groups and alkylene oxide components. The prior art cited by the Examiner fails to suggest surfactants having this combination of aromatic end group and alkylene oxide content. It would not be obvious to introduce into the reference formulas a surfactant that would comply with the claimed formula. This is particularly true since the reference relies on the surfactant to obtain antibacterial or antifungal properties. The claimed material, however, is formulated to obtain the removal of inorganic and sulfur containing deposits in scrubber equipment. The modification of a non-anticipatory formula formulated for a different and use with a surfactant is not contemplated by the reference is not an obvious modification. A summary the reference is not teach all the elements in the invention, does not provide a reason for combining any arbitrary surfactant was the other formula ingredients and provides no indication of success should that combination be made. As a result the Examiner has made no *prima facie* case of anticipation or obviousness.

Further, Applicants have amended the claims recite the presence of a defined amount of both a sequestrant and an essential oil. These materials cooperate with the peracid and the surfactant to remove odor and soil in the end use application. The cited references do not teach the use of this combination of a specific amount of sequestrant and an essential oil for soil removal purposes.

In paragraph 7, Examiner rejects claims 4 and 9 under 35 USC §103(a) over the Grodin references. Applicants respectfully traverse the rejection. Examiner's rejection is statutorily insufficient. In order to make a complete obviousness rejection, the reference must first provide a motivation to modify the reference, and must teach all the claimed elements and must provide a reasonable expectation of success for the claimed use. The cited reference fails to form a *prima facie* case of obviousness. In Grodin, the surfactant is optional and the formula requires an amine oxide. Omitting the amine oxide and changing the surfactant content is *prima facie*, not obvious. Further, the Examiner admits that:

" ... there is no direct teaching (i.e. by way of an example) to where an sequestrant agents (sic) is actually contained in the peracid containing aqueous composition."

Based on this admission, the Examiner's obviousness rejection must fail since it does not comply with the requirements of a rejection under 35 USC §103(a).

In paragraph 8, Examiner rejects claims 1-9 under 35 USC §102(e) or §103(a) over Lentsch et al., United States Patent No. 6,257,253 or Baum et al., United States Patent No. 6,302,968. A brief review of these references shows that the claimed surfactant is not taught. The reference has a generic surfactant teaching that does not teach the claimed surfactant with any particularity. Further, the claimed concentration of sequestrant and the essential oil is not taught or suggested by this art. Applicants respectfully traverse rejection.

Both references teach compositions useful as rinse compositions in ware washing. The surfactants are chosen to optimize rinsing the hard surface of dishware, flatware, etc. The surfactants suggested by these references are similar and at the amount of ethylene oxide or propylene oxide, the references require an aromatic end cap at both ends of the surfactant. Examiner's unsupported expansion of the surfactant formula notwithstanding. Neither of the references teach appropriate surfactant that is optimized for soil removal. The references teach surfactants that obtain rinse composition properties only. One ordinary skill in this art recognizes that rinse agent surfactants color no soil removing properties. One ordinary skill in this art would not look to the cited references for obtaining soil removing formulations.

Moreover, neither reference teaches the proportion of sequestrant or the essential oil recited in the claims. As a result, the rejection over the cited references must fail.

In paragraph 9-10, Examiner rejects claims 1-2, 3 and 5-8 under 35 USC §103(a) over Harvey et al., United States Patent No. 5,756,139. Applicants respectfully traverse rejection.

The Examiner admits that the reference fails to teach the claimed surfactant. Based on admission, the rejection must fail. Moreover, the formula shown in column 2, line 30, cannot anticipate or make obvious the surfactants of the invention since the R end group is always an alkyl. In the invention, R is always a benzyl or alkylaryl group. R' is defined as an alkyl or aryl group with no specificity. Based on the teachings of Harvey, one could not suggest Applicants' claimed nonionics. Moreover, Harvey does not teach the proportion of sequestrant nor the essential oil required by the claimed. As a result no rejection under Harvey can be maintained. The modification of Harvey, a reference that teaches an egg washing/disinfecting composition, to obtain a composition that removes sulfur and inorganic soil is not obvious. The amount of peracid is a no particular reference to lead of the failings of the teaching as a whole.

Clearly, the amended claims recite a material so substantially different than that in the prior art, no anticipation or obviousness rejection can be made over the prior art. In view of the above amendments and remarks, Applicants respectfully request a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date



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